

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF GEORGIA
MACON DIVISION

WAYNE STRICKLAND,	:	
	:	
Plaintiff,	:	
	:	
VS.	:	CIVIL ACTION NO.: 5:08-CV-51 (HL)
	:	
CYNTHIA NELSON, <i>et al.</i> ,	:	
	:	
Defendants.	:	

ORDER

Plaintiff **WAYNE STRICKLAND** has filed a motion to proceed *in forma pauperis* on appeal (R. at 8) from the Court's Order denying this motion to proceed *in forma pauperis* and dismissing his case without prejudice. (R. at 5). In the Court's best judgment, an appeal from that Order cannot be taken in good faith. 28 U.S.C. § 1915(a)(3). As was noted in this Court's Order (R. at 5), plaintiff has accumulated three strikes under 28 U.S.C. § 1915(g). The Prison Litigation Reform Act of 1995 provides that a prisoner may not bring a civil action or **appeal** a civil judgment

if the prisoner has, on 3 or more prior occasions, while incarcerated or detained in any facility, brought an action or appeal in a court of the United States that was dismissed on the grounds that it is frivolous, malicious, or fails to state a claim upon which relief may be granted, unless the prisoner is under imminent danger of serious physical injury.
28 U.S.C. § 1915(g).

Because plaintiff has had at least three complaints and/or appeals dismissed as frivolous in the past and has made no showing of "imminent danger of serious physical injury," his motion to proceed *in forma pauperis* on appeal is hereby **DENIED**.

If plaintiff wishes to proceed with his appeal, he must pay the entire \$455.00 appellate filing fee. Because plaintiff has stated that he cannot pay the \$455.00 immediately, he must pay using the partial payment plan described under 28 U.S.C. § 1915(b). Pursuant to § 1915(b), the prison account custodian where plaintiff is incarcerated shall cause to be remitted to the Clerk of this Court monthly payments of 20% of the preceding month's income credited to plaintiff's account until the \$455.00 appellate filing fee has been paid in full. Twenty percent of any deposits into the prisoner's account shall be withheld by the prison account custodian who, on a monthly basis, shall forward the amount

withheld from the prisoner's account to the Clerk of this Court each time the amount in the account exceeds \$10.00 until the total filing fee of \$455.00 has been paid. Checks should be made payable to "Clerk, U.S. District Court."

SO ORDERED, this 15th day of May, 2008.

s/ *Hugh Lawson*
HUGH LAWSON
UNITED STATES DISTRICT JUDGE

lnb